

# HOUSE BILL No. 1328

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 22-2-17; IC 34-6-2-34.5.

**Synopsis:** Paid sick leave for certain employees. Provides that certain employers shall provide paid sick leave to employees of one hour of paid sick leave for every 30 hours of employment, up to a maximum of 40 hours of paid sick leave a year. Provides that the commissioner of labor shall enforce paid sick leave for employees and shall adopt rules to implement paid sick leave.

**Effective:** July 1, 2016; January 1, 2017.

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January 12, 2016, read first time and referred to Committee on Employment, Labor and Pensions.

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Second Regular Session of the 119th General Assembly (2016)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2015 Regular Session of the General Assembly.

## HOUSE BILL No. 1328

A BILL FOR AN ACT to amend the Indiana Code concerning labor and safety.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 22-2-17 IS ADDED TO THE INDIANA CODE AS
- 2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
- 3 JANUARY 1, 2017]:
- 4 **Chapter 17. Employee Paid Sick Leave**
- 5 **Sec. 1.** As used in this chapter, "commissioner" refers to the
- 6 commissioner of labor appointed under IC 22-1-1-2.
- 7 **Sec. 2.** As used in this chapter, "domestic or family violence"
- 8 has the meaning set forth in IC 34-6-2-34.5.
- 9 **Sec. 3.** As used in this chapter, "department" means the
- 10 department of labor created by IC 22-1-1-1.
- 11 **Sec. 4.** As used in this chapter, "employee" means a person
- 12 employed or permitted to work or perform any service for
- 13 remuneration or under any contract of hire, written or oral,
- 14 express or implied, but does not include an independent contractor
- 15 (as described in IC 22-3-6-1(b)(7) or IC 22-3-7-9(b)(5)).
- 16 **Sec. 5.** As used in this chapter, "employer" means and includes
- 17 every person, firm, partnership, association, corporation, limited



liability company, receiver, and any agent or officer of any of the above, employing any person in the state, but does not include the following:

- (1) The federal government, including the United States military service.
- (2) A railroad.
- (3) The state, including a quasi-governmental entity.
- (4) A state educational institution (as defined in IC 21-7-13-32).
- (5) A municipal corporation (as defined in IC 36-1-2-10).

**Sec. 6.** As used in this chapter, "family member" means a child (including a stepchild or grandchild), a spouse or domestic partner, a parent, a parent-in-law, a sibling, a sibling-in-law, a grandparent (including a great-grandparent), or another individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship.

**Sec. 7.** As used in this chapter, "health care service" has the meaning set forth in 11-10-3-6(b)(2).

**Sec. 8. (a)** An employer shall provide paid sick leave for an employee. The paid sick leave shall accrue from the first day of employment of the employee.

**(b)** Paid sick leave provided under this section shall accrue:

- (1) at the rate of one (1) hour for each thirty (30) hours of employment with the employer; and
- (2) whether the hours of employment on which the paid sick leave is based are paid to the employee at a regular or overtime rate of pay.

**(c)** Paid sick leave provided under this section may be used by an employee after the first ninety (90) calendar days of reporting for employment by the employee.

**(d)** In addition to the requirements of subsection (c), paid sick leave provided under this section may not be used by the employee until after the pay period within which the leave is accrued.

**(e)** Paid sick leave under this section must be taken in one (1) hour increments.

**(f)** An employee may receive not more than forty (40) hours in a year of paid sick leave provided under this section by the employer.

**(g)** Accrued paid sick leave provided under this section in any amount may be carried over from one (1) year and used in the subsequent or following year in any accumulated amount.

**Sec. 9.** Paid sick leave provided under section 8 of this chapter



1 may be used for the following purposes:

- 2 (1) To care for an illness or injury or for the provision of  
 3 health care services for the employee.  
 4 (2) To care for a family member who is ill or injured or to  
 5 assist a family member receiving health care services.  
 6 (3) To allow for the care of a family member when a school  
 7 attended by a family member is closed due to a public health  
 8 emergency.  
 9 (4) To address a business closure due to a public health  
 10 emergency.  
 11 (5) To address the effects of domestic or family violence  
 12 against the employee or a family member.  
 13 (6) For additional purposes, including:  
 14 (A) attendance at meetings at the school of a child or  
 15 grandchild of the employee related to the health or  
 16 disability of the child; or  
 17 (B) compliance with quarantine requirements during a  
 18 public health emergency.

19 Sec. 10. (a) Subject to section 8 of this chapter and subsection  
 20 (b), an employee is entitled to take any amount of accrued paid sick  
 21 leave in any year.

22 (b) Paid sick leave described in subsection (a) is subject to the  
 23 following conditions:

- 24 (1) The employer may require the employee to submit a  
 25 written request to the employer for the paid sick leave at least  
 26 seven (7) days before the time desired for the paid sick leave  
 27 if the need for the paid sick leave is reasonably foreseeable. If  
 28 the need for the paid sick leave is not reasonably foreseeable,  
 29 the employee shall give as much notice as is practicable.  
 30 (2) The employer may require the employee to provide  
 31 certification of the need for the use of the paid sick leave when  
 32 the employee is away from employment duties for at least  
 33 three (3) consecutive days of employment. The certification  
 34 may be provided by the employee after the employee has  
 35 returned to employment duties.

36 Sec. 11. Notwithstanding any provision of this chapter, paid sick  
 37 leave shall be administered in a manner consistent with the Family  
 38 and Medical Leave Act of 1993 (29 U.S.C. 2601 et seq.).

39 Sec. 12. An employer may not:

- 40 (1) interfere with the rights of an employee under this  
 41 chapter;  
 42 (2) discriminate or retaliate against an employee for:



1 (A) the exercise or attempted exercise of the rights of the  
2 employee under this chapter; or

3 (B) complaining about the failure of the employer to follow  
4 this chapter; or

5 (3) use paid sick leave taken by the employee in accordance  
6 with this chapter against the employee in an absence control  
7 policy.

8 Sec. 13. A labor agreement entered into before January 1, 2017,  
9 continues in full force and effect until the date of termination of the  
10 agreement. A labor agreement entered into after December 31,  
11 2016, must contain provisions for paid sick leave in the manner  
12 provided as set forth in section 8 of this chapter.

13 Sec. 14. (a) Notwithstanding any other provision of this chapter,  
14 this chapter does not require an employer to provide additional  
15 paid sick leave if the employer provides an equivalent amount of  
16 paid sick leave or paid time off that is available to be used for the  
17 same purpose and under the same conditions as that provided for  
18 by section 8 of this chapter.

19 (b) This chapter does not prohibit an employer from providing  
20 paid sick leave or other compensation in addition to or in excess of  
21 the requirements of this chapter.

22 Sec. 15. (a) Except as provided in subsection (b), an employer is  
23 not required to provide compensation to an employee for accrued  
24 and unused paid sick leave upon termination, resignation,  
25 retirement, or other separation from employment with the  
26 employer.

27 (b) If an employee separates employment with the employer and  
28 is rehired by the employer within one (1) year from the date of  
29 separation, previously accrued and unused paid sick leave time  
30 shall be reinstated by the employer. The employee shall be entitled  
31 to use the previously accrued unused paid sick leave upon rehiring,  
32 subject to the use limitations and conditions set forth in this  
33 section.

34 Sec. 16. The commissioner shall enforce this chapter.

35 Sec. 17. (a) A notice in a form approved by the commissioner  
36 setting forth the rights of employees under this chapter must be  
37 conspicuously and continuously posted by the employer in an area  
38 in which employees are routinely employed in languages to be  
39 determined by the commissioner.

40 (b) The commissioner shall develop and implement an outreach  
41 and public information program to inform employees of rights  
42 afforded under this chapter. Materials and notification concerning



1 this chapter shall be made available in languages to be determined  
2 by the commissioner.

3 **Sec. 18. The commissioner shall adopt rules under IC 4-22-2 to**  
4 **implement this chapter.**

5 **Sec. 19. It is unlawful for any person to:**

6 (1) interfere with, obstruct, or hinder any inspector or agent  
7 of the department while the inspector or agent performs  
8 official duties; or

9 (2) refuse to properly answer questions asked by an inspector  
10 or agent of the department.

11 **Sec. 20. The commissioner may issue any reasonable order to**  
12 **remedy a violation of this chapter.**

13 SECTION 2. IC 34-6-2-34.5, AS AMENDED BY P.L.171-2007,  
14 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
15 JULY 1, 2016]: Sec. 34.5. "Domestic or family violence" means,  
16 except for an act of self-defense, the occurrence of at least one (1) of  
17 the following acts committed by a family or household member:

18 (1) Attempting to cause, threatening to cause, or causing physical  
19 harm to another family or household member.

20 (2) Placing a family or household member in fear of physical  
21 harm.

22 (3) Causing a family or household member to involuntarily  
23 engage in sexual activity by force, threat of force, or duress.

24 (4) Beating (as described in IC 35-46-3-0.5(2)), torturing (as  
25 described in IC 35-46-3-0.5(5)), mutilating (as described in  
26 IC 35-46-3-0.5(3)), or killing a vertebrate animal without  
27 justification with the intent to threaten, intimidate, coerce, harass,  
28 or terrorize a family or household member.

29 For purposes of **IC 22-2-17-9 and IC 34-26-5**, domestic and family  
30 violence also includes stalking (as defined in IC 35-45-10-1) or a sex  
31 offense under IC 35-42-4, whether or not the stalking or sex offense is  
32 committed by a family or household member.

